

U.S. Department of Labor

Occupational Safety and Health Administration  
Washington, D.C. 20210

Reply to the Attention of:



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MEMORANDUM FOR: AGENCY SAFETY AND HEALTH OFFICIALS  
FROM: *John E. Plummer*  
JOHN E. PLUMMER /JEP  
DIRECTOR  
OFFICE OF FEDERAL AGENCY PROGRAMS  
SUBJECT: Chapter XIII of OSHA's Field Operation Manual

Enclosed for your information is a copy of the Occupational Safety and Health Administration's (OSHA) Field Operations Manual, Chapter XIII, "Federal Agency Programs." This document is OSHA's principal guidance to its field staff concerning policies and procedures applicable to Federal agencies.

If you have questions concerning this document, please contact me on (202) 523-9329.

Enclosure

DD/A REGISTRY  
FILE: Log5-12-AR

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## CHAPTER XIII

### FEDERAL AGENCY PROGRAMS

#### A. Scope.

1. Statutory Requirements. Only two Sections of the Act apply to Federal agencies, Sections 19 and 24. Section 19(a), requires each Federal agency to maintain a comprehensive safety and health program for its employees. Executive Order 12196 requires Federal agencies to comply with OSHA standards issued under Section 6 of the Act. These standards are 29 CFR Part 1910, 1915, 1916, 1917, 1918 and 1926. The 29 CFR Part 1903, 1904 and 1905 regulations do not apply to Federal agencies.

2. Jurisdiction. OSHA's Federal agency jurisdiction varies according to the activity being performed.

a. Compliance. OSHA is authorized to conduct inspections in Federal agency establishments, unless:

- (1) The agency has Certified Safety and Health Committees.

NOTE: OSHA can conduct an inspection when half the members of the Certified Safety and Health Committee (the Committee) requests OSHA action.

- (2) The work is performed by military personnel or involves "uniquely military equipment, systems and operations."

NOTE: The work performed must be identifiable as peculiar to the national defense mission of DoD; workplaces and operations similar to those of industry are not excluded from OSHA coverage.

- (3) The agency is in the legislative or the judicial branch of government.

- (4) Another Federal agency has jurisdiction.

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- (3) Lower organizational units such as offices or divisions within a bureau or shops within a command should not be considered separate establishments.
- b. Establishment Official. The highest ranking person at a Federal establishment with authority over the establishment's working conditions.

5. References.

- a. "Occupational Safety and Health Programs for Federal Employees," (Executive Order 12196).
- b. "Basic Program Elements for Federal Employee Occupational Safety and Health Programs," (29 CFR Part 1960).
- c. "Recordkeeping and Reporting Guidelines for Federal Agencies," (OSHA 2014).

B. Compliance.

1. Targeted Inspections. Targeted inspections are inspections programmed on the basis of objective criteria. They are intended to focus OSHA's limited resources on establishments and work areas with the greatest potential for causing injuries or illnesses.
- a. Development of Basic Targeting List. During the second quarter of each fiscal year OFAP shall develop a basic targeting list for the following fiscal year in the following manner:
- (1) Using annual OWCP compensation data on all lost-time cases created during the previous fiscal year, OFAP shall list all Federal agency establishments with a significant number of claims. A DoD establishment is one command at an installation.
- (2) OFAP shall obtain employment data for these establishments from the agencies and calculate a lost-time claims rate (LTCR) for each establishment. The formula for calculating the LTCR is:

$$\frac{\text{Number of lost-time claims} \times 100}{\text{Number of Employees}}$$

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(10) OFAP shall transmit a final targeting list to Regional Administrators and agencies.

b. Special Emphasis Targeting. Special emphasis targeting programs may be developed using causal analysis data, agency specific data, etc. The Office of Federal Agency Programs shall explain how the list was developed, in writing, to Regional Administrators at the time the draft special emphasis targeting list is distributed.

c. Establishment Action Plan. To assist agencies and OSHA in identifying the work areas to be inspected, OFAP shall request the DASHO to have an action plan prepared for each targeted establishment (See Appendix "A"), and to provide a copy of the plan to the appropriate Regional Administrator within 60 calendar days of receipt of the targeting list.

(1) The establishment action plan provides an opportunity for the agency with targeted establishments to involve its managers in the task of improving its safety and health program. The plan is to address:

(a) The primary causes of the establishment's high rate of claims.

(b) The work areas with the highest injury/illness rates.

(c) Specific steps that will be taken to improve conditions and reduce the potential for workplace injuries and illnesses.

(2) The Regional Administrator or the Area Director within whose territorial jurisdiction the establishment is located shall provide assistance in developing action plans, upon request.

(3) The Regional Administrator shall perform a preliminary review of the action plan to ensure that it addresses the topics listed in B.1.c before transmitting it to the Area Office. If not, or if the plan is not received by the due date, the Regional Administrator shall notify his counterpart in the agency.

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that authorized employee representatives must be notified of the pending inspection and asked to participate. The Area Director may notify the authorized employee representatives directly, if known.

- e. Conduct of Targeted Inspections. Targeted inspections are intended to focus OSHA's resources on the Federal facilities with the highest injury/illness rates, and, at those facilities, to focus on the work operations causing the most injuries and illnesses. Federal agency inspections shall generally follow the procedures of Chapter III. Major differences are:

- (1) Scope of Inspection. Since many Federal facilities are so large that a comprehensive inspection would be impractical, the Area Director shall use the establishment action plan to determine which work areas to inspect. The CSHO, with the concurrence of the Area Director, may include additional work areas if:

- (a) The action plan does not adequately identify high hazard work areas or no plan was submitted.
- (b) Injury/illness records or employee report(s) indicate that additional work areas may have serious hazards. If so, the inspection may be expanded to include those areas.
- (c) On-site inspection of work areas identified by the plan reveals more hazards than would be expected for the type of work being performed, indicating a breakdown in the safety/health program. To determine which additional work areas may have serious hazards and should, therefore be inspected, the CSHO shall consult with representatives of management and employees, as appropriate.

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- (5) Petitions for Modification of Abatement Dates. See F, below.
- (6) Failure-to-Abate. See G, below.
- 2. Fatality/Catastrophe Investigations. OSHA has authority to investigate fatal or catastrophic accidents to Federal employees in agencies subject to OSHA inspections.

NOTE: A catastrophe is an incident that results in 5 or more people being admitted to a hospital, at least one of whom is a Federal civilian employee.

- a. Excluded Agencies. If an accident report is received concerning a Federal agency not under OSHA's jurisdiction, the person reporting the accident shall be referred to that agency's safety and health staff.
- b. Receipt of Fatality/Catastrophe Reports. Executive Branch agencies are required to report all civilian fatalities and catastrophes to OSHA within 48 hours.
  - (1) Reports Initially Received in the National Office. OFAP shall record the information necessary for completing the proper IMIS forms and immediately telephone the information to the appropriate Regional Administrator for transmittal to the Area Director.
  - (2) Reports Initially Received in the Regional Office. The Regional Administrator shall record the information necessary for completing the proper IMIS forms and immediately telephone the information to the appropriate Area Director and to OFAP.
  - (3) Reports Initially Received in the Area Office. The Area Director shall complete the proper IMIS forms, enter the data into IMIS, and notify the Regional Administrator by telephone, who shall notify OFAP.

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a. Receipt and Recording of Complaints. Upon receipt of a complaint, the receiving office shall determine if OSHA has the authority to conduct an unannounced inspection. If so, the procedures outlined in Chapter IX, A.3. apply except as follows:

(1) Complaints Initially Received in the National Office. OFAP shall ensure that sufficient information for handling the complaint is recorded and forwarded to the appropriate Regional Administrator for transmittal to the Area Director. When telephone complaints are received, it may be more appropriate to identify the responsible Area Office and have the complainant contact it directly.

(2) Complaints Initially Received in the Regional Office. The Regional Administrator shall ensure that sufficient information for handling the complaint is recorded and forwarded to the appropriate Area Director. When telephone complaints are received it may be more appropriate to identify the responsible Area Office and have the complainant contact it directly.

(3) Oral Complaints. The designated professional receiving an oral complaint shall ask if the complaint has been directed to safety and health personnel in the complainant's agency. If not, the complainant shall be encouraged to do so. If the complainant does not desire to submit a complaint to his/her own agency, the complaint shall be accepted and processed in accordance with normal procedures.

b. Responding to Complaints. Federal agency complaints where OSHA has enforcement authority shall be responded to in accordance with Chapter IX, A.6. through 10, except as follows:

(1) Complaints alleging an imminent danger situation shall be inspected within 24 hours of receipt of the report by the Area Office.

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- (c) If the agency response is unsatisfactory or the complainant informs OSHA that the hazard has not been abated, the Area Director shall contact the establishment official to discuss abatement status. The Area Director may schedule an inspection.
- (d) Area Directors shall include the acceptable responses to Federal agency letters with those from the private sector in determining tenth letter inspection information. The tenth letter inspections will be conducted by the Area Office in accordance with Chapter IX, A.8.b.
- (e) If the Area Director decides an inspection is to be scheduled of a formal other-than-serious complaint, the inspection shall be conducted within 30 days of the decision.

- c. Responding to Complaints When the Agency Has Certified Committees. OSHA is not authorized to conduct an inspection in response to employee complaints if the agency has Certified Committees, unless requested to do so by one-half of the members of the Committee. The following agencies have Certified Committees:

Panama Canal Commission  
Central Intelligence Agency  
Securities and Exchange Commission  
Interstate Commerce Commission  
General Services Administration  
Department of Labor  
Tennessee Valley Authority  
U.S. International Trade Commission

- (1) Complaints from employees in agencies with Certified Committees are to be handled by the receiving office as follows:



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- (2) When half the members of record of an agency's Certified Safety and Health Committee agree, a request can be made for OSHA to evaluate an agency's response to a report of unsafe or unhealthful working conditions. When such a request is received, OSHA will conduct an inspection classified as a complaint inspection.
- d. Responding to Complaints When OSHA Does Not Have Authority. If OSHA does not have compliance authority over the complainant's agency, he/she shall be advised to contact his/her employer's safety and health staff. Every effort shall be made to assist in identifying the proper person to be contacted. The receiving OSHA office shall:
  - (1) Transmit written complaints evaluated as a potential imminent danger to the agency by telephone, followed as soon as possible by a confirming letter with the complaint attached.
  - (2) Transmit other written complaints by mail to the agency safety and health staff as soon as possible.
  - (3) Acknowledge all written complaints by letter, informing complainants that their agency does not fall under OSHA's compliance authority and that their complaint has been forwarded to their agency for action. When a complaint is received in person or by telephone, the complainant shall be given the same information and shall be informed that the complaint must be directed to the agency for action.
4. Reports of Safety and Health Program Deficiencies. When complaints from Federal employees or employee representatives are received which include allegations of deficiencies in the safety and health program (29 CFR Part 1960) at their establishment, the following additional procedures shall be followed.

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- (3) Reports received which only allege program deficiencies do not have to be recorded on OSHA-7 forms and are not subject to inspection. - - -

c. Copies of all correspondence related to reports of program deficiencies, including establishment response, shall be forwarded through the Regional Administrator to OFAP. This information will be used in selecting field locations during an agency evaluation and may be used by OFAP to determine the priority of scheduling agency evaluations. The FAPO should bring to the attention of OFAP situations where establishment officials have inadequately responded to reports.

5. Reports of Reprisal. Section 11(c) of the Act does not apply to Federal employees. Complainants alleging discrimination for health and safety activities shall be informed that 29 CFR 1960.46 requires each agency to establish procedures to protect employees from reprisal and that the effectiveness of those procedures will be examined during OSHA Federal agency evaluations.

a. A copy of all reports of alleged reprisal falling within the scope of 29 CFR 1960.46 received in the Regional/Area Offices shall be forwarded to the Director, OFAP, through the Regional Administrator.

(1) The allegation shall be reviewed by the receiving office to ensure that the alleged reprisal meets the requirements for a valid discrimination complaint based on safety and health activities.

(2) When allegations do not fall within the scope of 29 CFR Part 1960.46 (reprisal for filing a compensation claim, for having an injury, for refusing to work when the threat of bodily harm was not imminent, etc.) the complainant shall be so informed.

(3) When possible, the receiving office should obtain details showing the nature of the reprisal, the agency's reasoning for the action, and the alleged link to actions under 29 CFR 1960.46.

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- b. Evaluations may be classified by scope as follows:
- (1) Full-scale evaluations include headquarters and worksite reviews;
  - (2) Headquarters-only evaluations do not include worksite reviews.
  - (3) Agency self-evaluations may be substituted for an OSHA evaluation when recommended by the Director, OFAP, and approved by the Secretary.
2. Time Frames. In the evaluation process there is a specific time framework within which OSHA and the evaluated agency must operate to meet the requirements of 29 CFR Part 1960.
- a. 60 Calendar Days before Opening of Evaluation. OFAP shall send a letter signed by the Secretary notifying the Federal agency head of OSHA's impending evaluation.
  - b. 30 Calendar Days before Opening of Evaluation. OFAP shall hold an informal meeting with the agency's occupational safety and health program staff to plan the opening conference, to develop a list of worksites to visit and to obtain agency safety and health documents for background information. Within 2 working days of the close of this meeting, OFAP will inform the affected Regional Offices by telephone of the sites identified.
  - c. 21 Calendar Days after the National Opening Conference. All subordinate office visits and all establishment on-site visits shall be completed within 21 calendar days of the conclusion of the opening conference with the agency head. If field visits are delayed by the agency, they shall be completed within 14 calendar days after the Director, OFAP, notifies the Regional Administrator that they may begin.
  - d. 9 Calendar Days after the Field visit Closing Conference. Compliance officers' findings shall be provided to the Regional Administrator within 9 days after the worksite closing conference.

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g. Forward to the Regional Administrators any agency background material or advise him/her of data available from agency field units.

(1) This material may include injury/illness data, occupational safety and health program documentation, agency organizational structure and internal safety and health inspection and self-evaluation reports.

(2) Such material shall be forwarded to the Regional Administrator at least two weeks before the opening conference.

h. Request the agency to notify the National headquarters of labor organizations representing employees at the field sites to be visited. If there is more than one organization, the agency shall be requested to contact at least those with national exclusive recognition or national consultation rights with the agency.

i. Confer with the DASHO to establish a date for the opening conference with top agency management.

j. Request Regional Administrators, immediately after establishing the opening conference date, to provide a Regional evaluation team. The team leader for the Regional evaluation team shall be the Regional FAPO and, in most cases, the team will include one health and one safety senior compliance officer.

k. Conduct an opening conference at agency headquarters. Items for discussion shall include the objectives of the evaluation; evaluation procedures; employee participation in worksite surveys (such participation shall be encouraged by OSHA); the schedule for establishment onsite visits; the closing conference with the agency and the final report.

l. Contact each FAPO participating in the evaluation by telephone immediately after the opening conference to transmit any policy or procedural changes resulting from the conference discussions.

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- q. Send a copy of the final agency report and of the agency's comments to the President with the Secretary of Labor's Annual Report.
  - r. Conduct headquarters only evaluations to assess changes in the agency's occupational safety and health program since the previous evaluation and to monitor progress in implementing OSHA recommendations. The headquarters only evaluation shall include a headquarters review, and may also include a review at the headquarters of subordinate agencies. It will not include visits to agency worksites.
4. Regional/Area Office Responsibilities for Full-Scale Evaluations. The Regional Administrator shall:
- a. Select a safety specialist and industrial hygienist to serve as members of each establishment review team. The teams shall be led by the FAPO or other Regional representative with Federal agency experience. Each newly assigned FAPO shall accompany an experienced Federal agency evaluator, as a trainee, on at least one Federal establishment evaluation prior to serving as a team leader.
  - b. Contact the agency's Regional Office and/or establishments to be evaluated by telephone to set a date for the onsite visit, to outline the evaluation process, and to encourage employee participation in the evaluation. Such contact shall be made only after receiving notification from the OFAP evaluation leader that the agency has notified its workplaces. OFAP will provide the FAPO with the names, addresses and telephone numbers of agency contact personnel.
  - c. Ensure in a preliminary meeting that all Regional team members are familiar with the objectives of the evaluation, Executive Order 12196, 29 CFR Part 1960, agency background information, and the procedures to be followed during the worksite review.

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- (3) The team leader shall direct CSHOs to the proper locations to be included in the walkaround according to the scope of the review. The findings shall be recorded in accordance with current procedures.
- (a) The purpose of the workplace survey is to assess program implementation at the field level. During the survey, therefore, the CSHO shall concentrate on interviewing supervisors, employee representatives and employees.
- (b) The survey normally shall last no more than 4 working days.
- 1 If the establishment is large, evaluators need not conduct a walkaround of the entire facility. Their efforts shall be focused on locations where records indicate that more injuries or illnesses are occurring or where operations are likely to create unsafe or unhealthful working conditions.
- 2 During the workplace survey the evaluators shall interview an appropriate sample (approximately 5-10%) of supervisors, employee representatives, and employees, using the "Workbook Survey Questions." (See OSHA Instruction FAP 2.1B, Appendix B.)
- (c) The workplace survey need not include full-shift samples for hazardous exposures. Screening samples, in conjunction with interviews, shall normally be used to determine if the agency had reasonable cause to conduct full-shift sampling to verify its normal sampling protocol.
- (d) The FAPO shall meet the team members at the conclusion of the workplace survey to discuss their findings and to identify items to be discussed at the closing conference.

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- (6) If the workplace survey was conducted by CSHOs from another Area Office, all case file documents shall be forwarded through the Regional Administrator to the Area Director in whose territory the establishment is located.
- (7) A written report, in the format given in OSHA Instruction FAP 2.1B, Appendix C, containing the results of subordinate office and establishment visits shall be sent to the Director, OFAP, no later than 30 calendar days after the field closing conference.
  - (a) The narrative summary report should be a concise summary of the major strengths and weaknesses of the worksite safety and health program.
  - (b) An appendix to the report shall include a response to each question in the "Occupational Safety and Health Program Guide for Field Establishments. Regional Administrators have been provided a "floppy disk" containing the evaluation questions for use on the Altos computer. The appendix may be forwarded under separate cover.
  - (c) Workplace summary reports, appendices, and related materials are considered internal working documents, not for distribution outside the agency.

D. Assistance.

- 1. Offsite. Assistance provided to Federal agencies away from an agency establishment shall be recorded in the Full-Service Area Office log.
- 2. Onsite. Agency Technical Assistance Requests (ATARs) are requests by a Federal agency for onsite assistance. Assistance provided onsite is recorded on an OSHA-1.

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- (2) The Area Director shall inform the establishment official by letter of the results of the visit. The letter shall describe OSHA's action taken in response to the assistance request and provide findings and recommendations, as appropriate.
- (a) If any hazards were uncorrected at the end of the visit, the letter shall:
- 1 Discuss in sufficient detail all apparent violations observed by the assistance team.
  - 2 Indicate abatement dates for serious violations as discussed with the establishment official.
  - 3 Request abatement plans for any serious violation that cannot be eliminated within 30 calendar days. Abatement plans must be submitted within 30 calendar days of receipt of the letter.
  - 4 Request that the establishment official notify OSHA in writing of abatement action taken upon expiration of the established abatement period.
- (b) If no hazards were observed or if all hazards were eliminated prior to the completion of the closing conference, the Area Director shall so inform the establishment official.
- (3) If, after 30 days, the Area Director has not received an abatement plan and has not been notified that violations have been abated, the Area Director shall check on abatement status by telephone or onsite visit. If any hazards are unabated, a Notice shall be issued.

NOTE: Where onsite assistance is provided for those agencies excluded from OSHA jurisdiction, no Notice will be completed. Only a recommendation letter should be sent.



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- c. Abatement dates shall be assigned in accordance with Chapter III, Section E.
- d. Each Notice shall be accompanied by a cover letter which shall:
  - (1) Include any recommendations for program improvement discussed during the closing conference, with specific references to pertinent sections of 29 CFR Part 1960.
  - (2) Request the establishment official to respond in writing by a specified date, with a detailed description of how each hazard has been abated or with a detailed abatement plan. The abatement plan must include:
    - (a) All steps that can be taken in an effort to achieve compliance during the prescribed abatement period and their projected dates.
    - (b) The specific additional abatement time estimated to be necessary to achieve complete compliance.
    - (c) The reasons why such additional time is necessary, including unavailability of professional or technical personnel, essential materials or equipment, necessity of construction or alteration of physical facilities that cannot be completed by the original abatement date.
    - (d) Interim steps being taken to safeguard employees against the hazard during the abatement period.
  - (3) Inform the establishment official that an informal conference may be requested in writing or by telephone with a confirming letter within 15 calendar days of receipt of the Notice. The letter must identify the items to be discussed.
- e. Upon receipt of an abatement plan, the Area Director shall notify the establishment official of its acceptance.

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2. The Area Director shall send a copy of the Notice to the DASHO (no cover letter required). (For Army, send to: U.S. Army Safety Center, Fort Rucker, AL 36362-5363.)
  3. The Area Director shall forward a copy of the OSHA-2B Form and supporting documentation as deemed necessary to the Regional Administrator.
  4. The Regional Administrator shall write to the equivalent Federal agency organizational level with responsibility and authority for the establishment's working conditions, requesting the manager to ensure abatement of the hazard or development of an acceptable hazard abatement plan; for example, the Veterans Administration Regional Director or the U.S. Postal Service Field Division General Manager.
  5. OFAP shall provide an updated list of names, addresses, and phone numbers of the larger agencies to Regional Administrators at least annually.
  6. If the hazard is not abated and an abatement plan is not developed 40 working days after issuance of the Failure-to-Abate Notice, the appropriate documentation shall be forwarded to OFAP for resolution with agency headquarters.
- H. Informal Conference Procedures. Establishment officials may request an informal conference with the Area Director who issued the Notice to discuss the items on the Notice.
1. If the establishment official has requested an informal conference, the Area Director shall conduct one within 15 calendar days of the request.
  2. When an agency requests an informal conference, the Area Director shall advise the agency that employee representatives shall be notified of the conference date and their right to attend, or have a separate conference.
  3. Abatement dates on items to be discussed shall remain open until the issues shall have been resolved at the informal conference, or by the Regional Administrator, or by the Director, OFAP.